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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

DEMARCUS MONTE GIVAN,      } Case No. CV 15-5271-BRO (KK)

Petitioner,                  }

v.                             }

K. SANTORO, Warden,        }

Respondent.                 }

**MEMORANDUM AND ORDER  
SUMMARILY  
DISMISSING ACTION**

On July 14, 2015, “Petitioner” Demarcus Monte Givan, a California state prisoner who has not yet actually filed a Petition for a Writ of Habeas Corpus in this Court, filed a “Motion and Request for Stay and Abeyance.” (ECF Docket No. 1). It appears Petitioner is seeking to stay this action so he can exhaust certain claims for habeas relief in state court, before pursuing a Petition for a Writ of Habeas Corpus in this Court. (Id.).

The Court cannot grant Petitioner’s request. Under Article III of the U.S. Constitution, federal courts may only adjudicate cases or controversies, and may not issue advisory opinions. U.S. Nat’l Bank v. Independent Ins. Agents of Am., Inc., 508 U.S. 439, 446, 113 S. Ct. 2173, 124 L. Ed. 2d 402 (1993). Because Petitioner has not actually filed a federal habeas petition challenging his conviction or sentence, there is no case or controversy properly before the Court. See Carr v.

1     California, No. CV 13-4045-PSG (JC), 2013 WL 3053093 (C.D. Cal. June 14,  
2     2013) (dismissing action for lack of a case or controversy where habeas petitioner  
3     filed motion to stay action without actually filing a federal habeas petition); Myrick  
4     v. Sec'y, No. CV 09-8898-GHK (CW), 2010 WL 144361 (C.D. Cal. Jan. 6, 2010)  
5     (same). The Court therefore lacks jurisdiction to grant a motion to stay this action.

6           IT IS THEREFORE ORDERED that Petitioner's Motion and Request for  
7     Stay and Abeyance is DENIED, and that Judgment be entered summarily  
8     dismissing this action without prejudice.  
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10    DATED: July 24, 2015



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13           HON. BEVERLY REID O'CONNELL  
14           UNITED STATES DISTRICT JUDGE

15    Presented by:  
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18           KENLY KIYA KATO  
19           UNITED STATES MAGISTRATE JUDGE  
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